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EXAMINER

SHRADER, LAWRENCE J

ART UNIT

PAPER NUMBER

2124

DATE MAILED: 07/01/2004

718

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/774,629

Applicant(s)

SHIOBARA ET AL. *fb*

Examiner

Lawrence Shrader

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the amendment filed by the Applicant on 4/21/2004.
2. Applicant's argument has been fully considered, but is moot in view of the new grounds of rejection presented in this Office action.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6, 11, 16, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of vague language in the amended limitation of each of the mentioned claims would not be understandable to one skilled in the art. The amendment reads as follows:

“wherein said checking step comprises a step for checking for said interferences based on memory usage information indicting to be used memory area by executing the installed program in said signature data and memory usage information of said other already installed program.”

The amended claim contains a word out of context i.e., “indicting” and the rest of the sentence is vague: “...indicting to be used memory area by executing the installed program in said signature data and memory usage information of said other already installed program.” The examiner will interpret the amendment using the language prior to the vague segment of the amendment, i.e.,:

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“wherein said checking step comprises a step for checking for said interferences based on memory usage information.”

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, 5; 6, 7, 9, 10; 11, 12, 14, 15; 16, 17, 19, 20; and 21, 22, 24, 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Parthasarathy et al., U.S. Patent 6,347,398 (hereinafter referred to as Parthasarathy) in view of Brewer, U.S. Patent 6,295,645.

**In regard to claim 1:**

Parthasarathy discloses a program installation method comprising;

*“a step of receiving a program's signature data;”*

See column 3, lines 6 – 13 for receiving a program's signature data.

*“a step of checking for interference with other already installed programs on the basis of said signature data;”*

See column 3, lines 6 – 13 for checking for interference (checking to see if the program is safe to install, thus preventing adverse interaction with other programs) by checking the signature data.

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*“a step of authorizing the installation of programs with which there is no interference.”*

The installation is authorized based on the signature data and installed (column 3, lines 6 – 21).

*“wherein said checking step comprises a step for checking for said interferences based on memory usage information indicting to be used memory area by executing the installed program in said signature data and memory usage information of said other already installed program.”*

Parthasarathy discloses checking for interference (checking to see if the program is safe to install, thus preventing adverse interaction with other programs) by checking the signature data (See column 3, lines 6 – 13), but does not explicitly check for interference based on memory usage. However Brewer discloses checking for sufficient resources for a processor to run code that has had a signature verification (column 22, lines 19 – 29). One skilled in the art would understand memory to be a resource needed to run code. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the checking for interference with signature data as taught by Parthasarathy with also checking for interference based on memory usage as taught by Brewer, because the interference checks allows steps to be taken to free the necessary resources as taught by Brewer at column 22, lines 24 – 27.

**In regard to claim 2**, incorporating the rejection of claim 1:

*“...wherein said checking step further comprises a step for checking for said interference based of whether or not memory usage information in said signature data includes a use of register area.”*

Parthasarathy discloses checking for interference (checking to see if the program is safe to install, thus preventing adverse interaction with other programs) by checking the signature data (See column 3, lines 6 – 13), but does not explicitly check for interference based on memory

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usage including a register area. However Brewer discloses checking for sufficient resources for a processor to run code that has had a signature verification (column 22, lines 19 – 29). One skilled in the art would understand memory and registers to be resources needed to run code in a computer system. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the checking for interference with signature data as taught by Parthasarathy with also checking for interference based on memory usage including register area as taught by Brewer, because the interference checks allows steps to be taken to free the necessary resources as taught by Brewer at column 22, lines 24 – 27.

**In regard to claim 4**, incorporating the rejection of claim 1:

*“...wherein said receiving step comprises a step for receiving said signature data and said program.”*

Parthasarathy discloses that the method and system disclosed receives via a computer network the program and the signature data it contains (see Abstract; and column 3, lines 6 – 13 for the signature data content).

**In regard to claim 5**, incorporating the rejection of claim 1:

*“...wherein said receiving step comprises a step for receiving said signature data, and said step for authorizing installation comprises a step for requesting said authorized program and receiving said program.”*

See column 3, lines 6 – 21; and column 8, lines 36 – 42.

**In regard to claim 6** (an apparatus), rejected for the same corresponding reasons as put forth in the rejection of claim 1 (the corresponding method) above:

*“memory for storing installed programs;”* See Figure 1.

*“a processor for executing said programs;”* See Figure 1.

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*“wherein said processor receives a program's signature data, checks for interference with other already installed programs based on said signature data, and authorizes installation of programs with which there is no interference.” See claim 1.*

*“wherein said checking step comprises a step for checking for said interferences based on memory usage information indicating to be used memory area by executing the installed program in said signature data and memory usage information of said other already installed program.”*

Parthasarathy discloses checking for interference (checking to see if the program is safe to install, thus preventing adverse interaction with other programs) by checking the signature data (See column 3, lines 6 – 13), but does not explicitly check for interference based on memory usage. However Brewer discloses checking for sufficient resources for a processor to run code that has had a signature verification (column 22, lines 19 – 29). One skilled in the art would understand memory to be a resource needed to run code. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the checking for interference with signature data as taught by Parthasarathy with also checking for interference based on memory usage as taught by Brewer, because the interference checks allows steps to be taken to free the necessary resources as taught by Brewer at column 22, lines 24 – 27.

**In regard to claim 7** (an apparatus), incorporating the rejection of claim 6, rejected for the same corresponding reasons put forth in the rejection of claim 2 (the corresponding method).

**In regard to claim 9**, (an apparatus) incorporating the rejection of claim 6, rejected for the same corresponding reasons put forth in the rejection of claim 4 (the corresponding method):

**In regard to claim 10**, (an apparatus) incorporating the rejection of claim 6, rejected for the same corresponding reasons put forth in the rejection of claim 5 (the corresponding method):

**In regard to claim 11:**

*“a step of uploading at least a signature data of a program in response to a program request;”*

Parthasarathy discloses that a signature is uploaded over a computer network (see Figure 2 and column 8, lines 36 – 42).

*“a step of receiving the signature data of said program;”*

Rejected for the same reason given in claim 1.

*a step of checking for interference with other already installed programs on the basis of said signature data;”*

Rejected for the same reason given in claim 1.

*“a step of authorizing the installation of programs with which there is no interference.”*

Rejected for the same reason given in claim 1.

*“wherein said checking step comprises a step for checking for said interferences based on memory usage information indicting to be used memory area by executing the installed program in said signature data and memory usage information of said other already installed program.”*

Parthasarathy discloses checking for interference (checking to see if the program is safe to install, thus preventing adverse interaction with other programs) by checking the signature data (See column 3, lines 6 – 13), but does not explicitly check for interference based on memory usage. However Brewer discloses checking for sufficient resources for a processor to run code that has had a signature verification (column 22, lines 19 – 29). One skilled in the art would understand memory to be a resource needed to run code in a computer system. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the checking for interference with signature data as taught by Parthasarathy with also checking for interference based on memory usage as taught by Brewer, because the interference checks



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allows steps to be taken to free the necessary resources as taught by Brewer at column 22, lines 24 – 27.

**In regard to claim 12** (a method), incorporating the rejection of claim 11, rejected for the same corresponding reasons put forth in the rejection of claim 2.

**In regard to claim 14** (a method), incorporating the rejection of claim 11, rejected for the same corresponding reasons put forth in the rejection of claim 4.

**In regard to claim 15** (a method), incorporating the rejection of claim 11, rejected for the same corresponding reasons put forth in the rejection of claim 5.

**In regard to claim 16 (a system)**, rejected for the same corresponding reasons as put forth in the rejection of claim 11 above (the corresponding method):

**In regard to claim 17** (a system), incorporating the rejection of claim 16, rejected for the same corresponding reasons put forth in the rejection of claim 12 (the corresponding method).

**In regard to claim 19** (a system), incorporating the rejection of claim 16, rejected for the same corresponding reasons put forth in the rejection of claim 14 (the corresponding method).

**In regard to claim 20** (a system), incorporating the rejection of claim 16, rejected for the same corresponding reasons put forth in the rejection of claim 15 (the corresponding method).

**In regard to claim 21** (a storage medium), rejected for the same corresponding reasons put forth in the rejection of claim 1 above (the corresponding method).

**In regard to claim 22**, incorporating the rejection of claim 21, rejected for the same corresponding reasons put forth in the rejection of claim 2 above (the corresponding method).

**In regard to claim 24**, incorporating the rejection of claim 21, rejected for the same corresponding reasons put forth in the rejection of claim 4 above (the corresponding method).

**In regard to claim 25**, incorporating the rejection of claim 21, rejected for the same corresponding reasons put forth in the rejection of claim 5 above (the corresponding method).

6. Claims 3; 8; 13; 18; and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parthasarathy et al., U.S. Patent 6,347,398 in view of Brewer, U.S. Patent 6,295,645, and further in view of Mast, U.S. Patent 5,881,287.

**In regard to claim 3**, incorporating the rejection of claim 1:

*“...further comprising a step for registering said signature data of said authorized program.”*

Parthasarathy discloses registration of software components (Abstract), but neither Parthasarathy nor Brewer specifically discloses registration of signature data. However, Mast discloses the registration of an application program signature (column 62, lines 40 – 42). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the teaching of Parthasarathy and Brewer for checking interference of signature data and memory/register resources to properly run the code, and further combine the teaching of Mast to include the registration of signature data, because one skilled in the art would be motivated to register software components with the signature data to uniquely and efficiently secure data (or programs treated as data before being installed and run) as taught by Mast (column 3, lines 53 – 55; column 5, lines 43 – 57).

**In regard to claim 8**, (an apparatus), incorporating the rejection of claim 6, rejected for the same corresponding reasons put forth in the rejection of claim 3 (the corresponding method).

**In regard to claim 13** (a method), incorporating the rejection of claim 11, rejected for the same corresponding reasons put forth in the rejection of claim 3.

**In regard to claim 18** (a system), incorporating the rejection of claim 16, rejected for the same corresponding reasons put forth in the rejection of claim 13 (the corresponding method).

**In regard to claim 23**, incorporating the rejection of claim 21, rejected for the same corresponding reasons put forth in the rejection of claim 3 above (the corresponding method).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Shrader whose telephone number is (703) 305-8046. The examiner can normally be reached on M-F 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 305-9662. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Lawrence Shrader  
Examiner  
Art Unit 2122

June 25, 2004

*Lawrence Shrader*

**KAKALI CHAKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**